

## PART 917—KENTUCKY

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AUTHORITY: 30 U.S.C. 1201 *et seq.*

### § 917.1 Scope.

This part contains all rules applicable only within Kentucky that have been adopted under the Surface Mining Control and Reclamation Act of 1977.

[47 FR 21434, May 18, 1982]

### § 917.10 State regulatory program approval.

The Kentucky State program as re-submitted on December 30, 1981, and amended and clarified on February 22, 1982, was conditionally approved, effective May 18, 1982. Beginning on that date, the Kentucky Department for Natural Resources and Environmental Protection was deemed the regulatory authority in Kentucky for surface coal mining and reclamation operations and for coal exploration operations on non-Federal and non-Indian lands. Copies of the approved program are available for review at:

(a) Office of Surface Mining Reclamation and Enforcement, Lexington Field Office, 2675 Regency Road, Lexington, Kentucky 40503-2922.

(b) Department for Surface Mining Reclamation and Enforcement, Number 2, Hudson Hollow Complex, Frankfort, Kentucky 40601.

[48 FR 251, Jan. 4, 1983, as amended at 59 FR 17929, Apr. 15, 1994]

### § 917.11 Conditions of State regulatory program approval.

The approval of the Kentucky State program is subject to the state revising its program to correct the deficiencies listed in this section. The program revisions may be made, as appropriate, to the statute, to the regulations, to the program narrative, or by means of a legal opinion. This section indicates, for the general guidance of the State, the component of the program to which the Secretary recommends the change be made.

(a)–(p) [Reserved]

[47 FR 21434, May 18, 1982, as amended at 49 FR 33247, Aug. 22, 1984; 49 FR 37587, Sept. 25, 1984; 50 FR 8610, Mar. 4 1985; 50 FR 23003, May 30, 1985]

### § 917.13 State statutory and regulatory provisions set aside.

(a) The following provision of Kentucky Revised Statute at KRS 350.060(22) is inconsistent with section 701(28) of the Surface Mining Control and Reclamation Act of 1977 and is hereby set aside effective December 1, 1985:

“(22) All operations involving the crushing, screening, or loading of coal which do not separate the coal from its impurities, and which are not located at or near the mine site, shall be exempt from the requirements of this chapter.”

(b) [Reserved]

[50 FR 47728, Nov. 20, 1985]

### § 917.15 Approval of Kentucky regulatory program amendments.

(a) The following is a list of the dates amendments were submitted to OSM, the dates when the Director's decision approving all, or portions of these amendments, were published in the FEDERAL REGISTER and the State citations or a brief description of each amendment. The amendments in this table are listed in order of the date of final publication in the FEDERAL REGISTER.

# Surface Mining Reclamation and Enforcement, Interior

§ 917.15

Original amendment submission date	Date of final publication	Citation/description
May 28, 1982 .....	January 4, 1983 .....	405 KAR 1:005 § 6; 3:005 § 6; 7:020 § 1(11), (70), (117); 7:030 § 1; 7:040 § 5(1), 10(2), (7); 7:090 § 4(1), (6); § 6; 7:095, 8:010 § 6(1), (2), 13(1), 20(5), 21(2)(a)(4), (b)(1), 22(1), (2)(a), (a)(2), (2)(c)(1), (4), (5), (6); 8:020 § 2(2)(h); 8:030 § 23(4); 12:010 § 3(5)(a), (b); 16:140 § 2(1)(d); 18:140 § 2(1)(d); 24:020 § 3(5), (7), 4(6); 24:030 § 4(4), 8(7), 9.
May 28, 1982 .....	May 13, 1983 .....	KRS 151.250(3); 350.010, .035, .062(9), .093 § 2, .425, .990; 405 KAR 16:020 § 4.
January 11, 1983 .....	May 20, 1983 .....	405 KAR 7:020 § 1(13), (27), (34), (57); 12:010 § 6; 16:060 §§ 1(3), 9(2), 11(1), .090 §§ 2, 5(5), .110 § 2(2), .130 § 2(2), .220 § 4; 18:060 §§ 7(3), 9(1), (3), .090 §§ 2, 5(5), .110 2(2), .130 § 2(2), .230 § 4; 24:030 § 3.
February 1, 1983 .....	October 12, 1983 .....	Technical Reclamation Memorandum #9.
October 31, 1983 .....	November 25, 1983 .....	405 KAR 7:020E, .030E.
January 10, 1984 .....	April 13, 1984 .....	"Kentucky's Plan for Transition to Primacy".
May 1, 1984 .....	August 22, 1984 .....	KRS 350.010, .032, .093(2), .250(1), (3), (4); 355.060(5)(g).
October 31, 1983 .....	September 25, 1984 .....	405 KAR 1:030, .040, .050; 7:020, .030, .090; 8:030, .040; 16:060, .090, .140; 18:090, .140.
October 31, 1983 .....	October 3, 1984 .....	405 KAR 8:050 § 2; 16:190; 18:190.
October 12, 1984 .....	March 4, 1985 .....	405 KAR 7:020 § 1(87), (118), .030 § 3(1)(e).
August 3, 1984 .....	May 30, 1985 .....	KRS Chapter 350, .032, .060, .135, .990; 405 KAR 16:020.
August 29, 1985 .....	November 20, 1985 .....	Paragraph D of "Field Enforcement Procedures" in § II of the State program plan; 405 KAR 7:090 §§ 11(2)(a), 12(3); 24:030 defining "substantial legal and financial commitments".
December 4, 1984 .....	December 10, 1985 .....	405 KAR 7:070; 16:120; 18:120.
June 6, 1984, December 17, 1985.	January 24, 1986 .....	405 KAR 1:015; 3:015; 7:015.
August 13, 1985 .....	March 3, 1986 .....	405 KAR 7:020, .080; 8:030, .040; 12:010, .020; 16:050, .110, .130, .170; 18:050, .110, .130, .170; 20:030.
September 16, 1985, December 10, 1985.	March 17, 1986 .....	405 KAR 7:015; 10:030.
December 10, 1985 .....	April 4, 1986 .....	405 KAR 7:090, § 11(2)(a).
December 3, 1985 .....	April 9, 1986 .....	405 KAR 7:020E; 8:050E; 20:070E.
August 3, 1984 .....	May 27, 1986 .....	KRS 350.066 through .070; 405 KAR 10:035.
April 29, 1986 .....	July 15, 1986 .....	KRS Chapter 350 contained in Senate Bills 130, 374; KRS 350.470 through .550 contained in House Bill 285; KRS 350.060(22) contained in House Bill 757; KRS 350.990 contained in House Bill 839.
August 30, 1985, September 16, 1985, February 7, 1986.	August 27, 1986 .....	405 KAR 7:020, .060; 8:030, .040, .050; 16:010, .060, .080, .190; 18:060, .080, .190; 20:040, .070; documents incorporated by reference: "Soil Conservation Service, Kentucky Standards and Specifications for Land Restoration, Currently Mined Prime Farmland;" "Kentucky Prime Farmland Revegetation and Crop Production After Mining;" "Estimated Crop Yields on Prime Farmland Soils in Western Kentucky Coalfields;" "Estimated Crop Yields on Prime Farmland Soils in Eastern Kentucky Coalfields".
September 5, 1986 .....	March 9, 1987 .....	405 KAR 10:200.
February 27, 1987 .....	December 31, 1987 .....	405 KAR 16:060 § 11; 18:060 § 11, .190 § 2.
June 17, 1987 .....	March 10, 1988 .....	405 KAR 7:070.
April 29, 1988 .....	October 6, 1988 .....	405 KAR 7:090.
May 28, 1987 .....	October 7, 1988 .....	KRS 350.032 contained in House Bill 869.
July 5, 1989 .....	December 15, 1989 .....	405 KAR 8:010, .020, .030, .040; 24:040.
April 29, 1986 .....	April 9, 1990 .....	KRS 350.032.
April 21, 1988 .....	August 10, 1990 .....	KRS 350.020, .060, .064, .093, .130, .131, .151.
August 15, 1989 .....	November 1, 1990 .....	405 KAR 8:010 § 20(3), (5).
July 15, 1988 .....	December 31, 1990 .....	405 KAR 7:015, .020, .030, .090; 8:010, .020, .050; 10:010, .020, .030, .040, .050; 16:010, .070, .080, .100, .110, .120, .150, .190; 18:010, .070, .080, .100, .110, .120, .150, .190; 20:010, .060; 24:020, .030, .040.
May 8, 1990 .....	February 6, 1991 .....	KRS chapter 350 contained in Senate Bill 255; 350.010, .053, .054, .057, .060, .070, .085, .090, .093, .110, .113, .130, .139, .151, .990; 224.083.
January 9, 1991 .....	April 16, 1991 .....	405 KAR 10:040 § 2(4)(b)1.
January 24, 1991 .....	September 23, 1991 .....	405 KAR 7:020 § 1; 8:010 §§ 13(4), (5), 18(5), 25(1) through (4), .030 §§ 1(4), 2, 3, .040 § 1(3), 2, 3; 12:020 § 3(6).
June 28, 1991 .....	April 15, 1992 .....	405 KAR 7:080.
September 18, 1989 .....	August 18, 1992 .....	405 KAR 10:200; KRS 350.710-710.
June 28, 1991 .....	October 1, 1992 .....	405 7:001, § 1, .015 § 4(6), (7), .020, .021, § 1, .030 § 3(1) through (4), .035, §§ 1 through 9; 8:001 § 1, .020 §§ 1, 1(1), (2)(c), 2, (1), (2)(g), 4, 4(c)(5); 10:001 § 1, .200 §§ 1, 2, 4(4), 5(3), 6(1), (2), 7(1), (d), (e), (f), (i), (j), (2), (d), (e), (i); 12:001 § 1; 16:001 § 1, .190 § 7(2), .210 §§ 1(1), 2, 3, 4; 18:001 § 1, .190 § 5(2), .220 §§ 1(1), 2, 3, 4; 20:001 § 1, .010 §§ 2, 3, 4; 24:001 § 1.
March 13, 1992 .....	December 9, 1992 .....	405 KAR 8:030(20), (36), .040(20), (36); 16:180(1), (2), (3); 18:180(1), (2), (3).
July 30, 1992 .....	December 17, 1992 .....	KRS Chapter 350 §§ 350.550, .553, .560, .597.
June 28, 1991 .....	January 12, 1993 .....	405 KAR 8:010 §§ 5(1)(c), (d), 12(1)(a), 14(8), 20(2)(a)10, (3)(a), (d)23, (f), 20(5) through (7).

Original amendment submission date	Date of final publication	Citation/description
July 30, 1992 .....	March 26, 1993 .....	KRS Chapter 350 contained in House Bill 844 and Senate Bill 381; 350.010, .0281, .130(1), .260, .450(4)(c), .705(1) (b), (c); numerous other sections on "applicant," "permit applicant," "permittee," "person," "operator".
June 28, 1991 .....	June 8, 1993 .....	405 KAR 16:200, 18:200, TRM No. 19 (Field Sampling Techniques for Determining Ground Cover, Productivity, and Stocking Success of Reclaimed Surface Mined Lands), the use of average county yield data found in Kentucky Agricultural Statistics, a report published annually by the Kentucky Agricultural Statistics Service.
July 28, 1992 .....	August 6, 1993 .....	KRS 350 contained in Senate Bill 318; 405 KAR 7:001, 7:090, .091, .092; 8:001; 12:020.
July 21, 1992 .....	October 1, 1993 .....	405 KAR 1:007, 3:007, 7:030 § 4.
May 21, 1993 .....	February 24, 1994 ..	405 KAR 10:050 Statutory and regulatory citations, sections Necessity and Function, 1(1), 2(4), (5); 12:001 section Necessity and Function, (29), (30); 12:010 Statutory and regulatory citations, sections Necessity and Function, 3(2), (5)(a), (b), 4(1), (3).
June 28, 1991 .....	May 26, 1994 .....	405 KAR 8:030 §§ 1(4)(a), (b), 2(3), (4), (5)(a), (11), (12), 3(5), 4(2), 5(4), 10, 37–MRP, 38–MRP; 8:040 §§ 1(3)(a), (b), 2(3), (4), (11), (12), 3(5), 4(2), 5(4), 10, 37–MRP, 38–MRP.
April 26, 1994 .....	September 1, 1994	405 KAR 7:080 sections Necessity and Function, 1, 3, 4, 5, 6(4), (5), (8)(b), 7(1)(b), (3), 8, 10(2) (a), (b), 11(1), (d), (e).
April 18, 1994 .....	September 16, 1994	KRS 350.010, 350(1) through (32).
October 3, 1994 .....	February 15, 1995 ..	405 KAR 7:080 §§ 5(2), (a), (b), 6, 8(2)(a)(11), (b)(11), 11(1), (e).
April 29, 1994 .....	June 27, 1995 .....	KRS 42.470(1)(c); 132; 136; 138; 139; 177.977; 211.390(1), .392(1), (2), (5), (6), (8); 350.010 (1), (2), (9), (16), (22), (23), .0285, .0301(1), (4), .0305, .032(2), (4), .070(1), .085(1), (7), .095(1), (2), .421, (1), (2), .560(1); 351.070(13), (14); 352.420(3).
August 2, 1994 .....	December 7, 1995	405 KAR 16:010 §§ 1, 6, 7, 8; 18:010 §§ 4, 5, 6.

(b) The Director is deferring his decision on the enforcement provisions of section 720 of the Act from its effective date (October 24, 1992), to the effective date of KRS 350.421(1) and (2) (July 15, 1994).

[62 FR 9942, Mar. 5, 1997]

#### § 917.16 Required regulatory program amendments.

(a) [Reserved]

(b) Pursuant to 30 CFR 732.17, Kentucky is required to accomplish the following actions or termination of the program approval found in § 917.10 will be initiated on August 31, 1985.

(1) Action to recruit personnel to meet the approved program staffing levels of 408 must begin upon publication of this notice. No later than May 1, 1985, notices concerning vacant positions must be advertised.

(2) Kentucky must have employed sufficient personnel to reach the approved permanent program level (408) no later than August 31, 1985. Of the approved permanent program level of 408, a minimum of 156 must be inspection and enforcement personnel.

(3) By the fifth of each month, beginning on February 5, 1985, Kentucky will provide a report to OSM describing the actions taken to achieve the approved

program staffing levels by August 31, 1985, and of any additional vacancies which may have occurred during the previous month.

(c) Pursuant to 30 CFR 732.17, Kentucky is required, prior to implementation of the following statutory amendments, to submit to the Director proposed regulations to implement the amendments, and to receive the Director's approval of the regulations:

(1) [Reserved]

(2) Statutory amendments contained in Senate Bill 374, submitted to OSMRE on April 29, 1986.

(3) Statutory amendments contained in House Bill 839, submitted to OSMRE on April 29, 1986.

(d) Pursuant to 30 CFR 732.17, Kentucky is required to submit for OSM's approval the following proposed amendments by the dates specified:

(1) By January 30, 1991, Kentucky shall submit a proposed amendment to 405 KAR 7:090 section 3(4)(a) to remove the word "abated" or otherwise propose to amend its program to clarify that the rule applies to abated and unabated violations.

(2) By January 30, 1991, Kentucky shall submit a proposed amendment to 405 KAR 8:010 section 8(2) or otherwise